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In re the Matter of: ) Case No.: 07-132  
)  
State of New Hampshire Banking ) Order To Show Cause  
)  
Department, ) Cease and Desist Order  
)  
Petitioner, ) Immediate Suspension  
)  
and )  
)  
Carteret Mortgage Corporation, Eric )  
)  
Weinstein, and Albert L. Elder, )  
)  
Respondents

## 12

13                   This Order commences an adjudicative proceeding under the provisions of  
14   RSA 541A:31, RSA 397-A, and BAN 204.03.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire Banking Department (hereinafter "the Department") may issue an Order to Show Cause why a license should not be revoked. RSA 397-A:17 states that the Department may issue such Order when a licensee engages in an unethical business practice. RSA 397-A:21 states the Commissioner may impose penalties of up to \$2,500 per violation of the chapter.

Pursuant to RSA 397-A:18 the banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter.

25 Pursuant to RSA 397-A:18 the Commissioner may by order summarily postpone  
or suspend any license or application pending final determination of any order

1 to show cause, or other order, or of any other proceeding under this section,  
2 provided the commissioner finds that the public interest would be irreparably  
3 harmed by delay in issuing such order

4 Pursuant to RSA 383:10-d the Commissioner shall investigate conduct that  
5 is or may be an unfair or deceptive act or practice under RSA 358-A and exempt  
6 under RSA 358-A:3, I or that may violate any of the provisions of Titles XXXV  
7 and XXXVI and administrative rules adopted thereunder. The commissioner may  
8 hold hearings relative to such conduct and may order restitution for a person  
9 or persons adversely affected by such conduct. The Commissioner may utilize  
all remedies available under the Act.

10 **NOTICE OF RIGHT TO REQUEST A HEARING**

11 The above named respondents have the right to request a hearing on this  
12 Order to Show Cause and Cease and Desist Order, as well as the right to be  
13 represented by counsel. Any such request for a hearing shall be in writing,  
14 and signed by the respondents or by the duly authorized agent of the above  
15 named respondents, and shall be delivered either by hand or certified mail,  
16 return receipt request, to the Banking Department, State of New Hampshire,  
17 64B Old Suncook Road, Concord, NH 03301. Hearings will be conducted within 10  
days of such request.

18 If respondents fail to request a hearing or respond to the orders  
19 within 30 calendar days of receipt of these orders, respondent shall be  
20 deemed in default, the penalties requested will be imposed, and the Cease and  
21 Desist will be become permanent on the 31<sup>st</sup> day.

22 Pursuant to RSA 541-A the Department shall hold a hearing within ten  
23 days on the issue of the immediate suspension. That hearing is Noticed under  
24 separate order.

25 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

1       The Staff Petition dated June 5, 2007 (a copy of which is attached  
2 hereto) is incorporated by reference hereto.

3                               ORDER

4       WHEREAS, finding it necessary and appropriate and in the public  
5 interest, and consistent with the intent and purposes of the New Hampshire  
6 banking laws, and

7       WHEREAS, finding that the allegations contained in the Staff Petition,  
8 if proved true and correct, form the legal basis of the relief requested,

9       It is hereby ORDERED, that:

- 10           1. Respondent Carteret Mortgage Corporation (CMC) shall show  
11           cause why penalties in the amount of \$2500.00 should not be  
12           imposed; and
- 13           2. Respondent Eric Weinstein shall show cause why penalties in  
14           the amount of \$2500.00 should not be imposed; and
- 15           3. Respondent Albert L. Elder shall show cause why penalties in  
16           the amount of \$2500.00 should not be imposed; and
- 17           4. Respondent CMC shall show cause why its license should not be  
18           revoked; and
- 19           5. The Respondents shall immediately Cease and Desist from all  
20           violations of New Hampshire law and the rules promulgated  
21           thereunder; and

22       Finding the public health, safety or welfare requires immediate action  
23 it is hereby ORDERED that:

- 24           6. Respondent CMC's license is suspended immediately; and
- 25           7. A hearing shall be held on the issue of suspension only within  
            10 days of this order; and
8. Failure to request a hearing within 30 days of the date of  
            receipt of this Order shall result in a default judgment being  
            rendered, the Cease and Desist Order shall become permanent

and administrative penalties shall be imposed upon the defaulting Respondent.

SIGNED,

Dated: 6/5/07

/S/  
PETER C. HILDRETH  
BANK COMMISSIONER

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In re the Matter of:	)	Case No.: 07-132
	)	
State of New Hampshire Banking	)	Staff Petition
	)	
Department,	)	
	)	
Petitioner,	)	June 5, 2007
	)	
and	)	
	)	
Carteret Mortgage Corporation, Eric	)	
	)	
Weinstein, and Albert L. Elder,	)	
	)	
Respondents	)	

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I. The staff of the Banking Department, State of New Hampshire (hereinafter referred to as the "Department") alleges the following facts:

1. Respondent Carteret Mortgage Corporation (CMC) is licensed as a mortgage banker and has held a license with the Department since at least 2000.
2. CMC's principal office is currently located at 6211 Centerville Rd Centerville, VA and they have one or more branch offices in New Hampshire.
3. Respondent Eric Weinstein is an owner, Officer or other direct controller of Respondent CMC and materially contributed or should have prevented Respondent CMC's failure to abide by the Chapter as alleged herein.
4. Respondent Albert L. Elder is an owner, Officer or other direct controller of Respondent CMC and materially contributed to Respondent CMC's failure to abide by the Chapter as alleged herein.

- 1 5. The Department initiated an examination of Respondent CMC on March 12,  
2 2007 pursuant to RSA 397-A:12.
- 3 6. During the examination it became apparent that a certain area of  
4 Respondent CMC's book and records were only accessible via a website  
5 regulated by a certain password.
- 6 7. The examiner requested access on more than one occasion and was refused.
- 7 8. The examiner notified the Respondent CMC via Respondent Elder that  
8 continued refusal to provide a password would be considered a failure to  
9 facilitate the exam.
- 10 9. Respondent Elder on behalf of Respondent CMC again refused to grant  
11 access to those books and records of the company.
- 12 10. In a previous exam Respondent CMC caused an undue delay of the  
13 examination by refusing to provide requested materials to such a degree  
14 that the exam had to be rescheduled.
- 15 11. In a previous exam Respondent CMC caused an undue delay of the  
16 examination by refusing to provide revenue sheets, employee records,  
17 work papers for the annual report and other financial information in a  
18 timely manner and utterly refused to provide certain materials.

19 II. The staff of the Banking Department, State of New Hampshire alleges the  
20 following issues of law:

- 21 1. The Banking Department ("Department"), has jurisdiction over the  
22 licensing and regulation of persons engaged in first mortgage banker /  
23 broker activities pursuant to NH RSA 397-A:3.
- 24 2. Pursuant to RSA 397-A:12 licensees are required to comply with  
25 examination requests with or without prior notice. All books, papers,  
files, files, related material, and records of assets shall be subject  
to the Department's examination.

1 3. RSA 397-A:21 IV provides that any person who, either knowingly or  
2 negligently, violates any provision of RSA 397-A, may upon hearing, and  
3 in addition to any other penalty provided for by law, be subject to  
4 suspension, revocation, or denial of any registration or license, or an  
5 administrative fine not to exceed \$2,500, or both. Each of the acts  
6 specified shall constitute a separate violation, and such  
7 administrative action or fine may be imposed in addition to any  
8 criminal penalties or civil liabilities imposed by New Hampshire  
9 banking laws. Respondents are subject to revocation and/or  
administrative fines for violations of RSA 397-A.

10 4. RSA 397-A:21 V provides that every person who directly or indirectly  
11 controls a person liable under this section, every partner, principal  
12 executive officer, or director of such person, who materially aids in  
13 the acts constituting the violation, either knowingly or negligently,  
14 may, upon notice and opportunity for hearing, and in addition to any  
15 other penalty provided for by law, be subject to suspension,  
16 revocation, or denial of an registration or license, including the  
17 forfeiture of any application fee, or the imposition of an  
18 administrative fine not to exceed \$2,500, or both. Each of the acts  
19 specified shall constitute a separate violation, and such  
20 administrative action or fine may be imposed in addition to any  
21 criminal penalties or civil liabilities imposed by New Hampshire  
22 banking laws. Respondents Eric Weinstein and Albert L. Elder are  
subject to revocation and/or administrative fines for violations of RSA  
397-A.

23 5. Pursuant to RSA 397-A:17 the commissioner may issue an order requiring a  
24 person to whom any license has been granted or any person under the  
25 commissioner's jurisdiction to show cause why the license should not be  
revoked, suspended, or penalties imposed, or both, for violations of this

chapter. Respondent CMG is subject to license revocation for failing to comply with examination requests pursuant to RSA 397-A:12.

6. Pursuant to RSA 397-A:18 the commissioner may by order summarily postpone or suspend any license or application pending final determination of any order to show cause, or other order, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order.

7. Pursuant to RSA 397-A:18 the banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter.

**RELIEF REQUESTED**

The staff of the Banking Department requests the Commissioner take the following action:

1. Find as fact the allegations contained in section I of the Statement of Allegations of this petition.
2. Make conclusions of law relative to the allegations contained in section II of the Statement of Allegations of this petition.
3. Assess fines and administrative penalties in accordance RSA 397-A:21, for violations of the New Hampshire Banking Laws, in the number and amount equal to the violations set forth in section I of the Statement of Allegations of this petition. Respondents are each subject to an administrative penalty of \$2,500 for each violation of the Chapter.
4. Order Respondent to show cause why their license should not be revoked.
5. Find that the public interest would be irreparably harmed by delay in issuing such order and therefore issue an immediate suspension of their license.
6. Order respondents to cease and desist from further violation of NH Law.



1 7. Take such other administrative and legal actions as are necessary for  
2 enforcement of the New Hampshire Banking laws, the protection of New  
3 Hampshire citizens, and to provide other equitable relief.

4 **RIGHT TO AMEND**

5 The Department reserves the right to amend this Petition for Relief and  
6 to request that the Banking Department Commissioner take additional  
7 administrative action. Nothing herein shall preclude the Department from  
8 bringing additional enforcement action under RSA 397-A, RSA 383:10-d or the  
9 regulations thereunder.

10  
11  
12 Respectfully submitted by:

13  
14 /s/  
15 James Shepard  
Staff Attorney

6/5/07  
Date